

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

TRIPLE CROWN, INC.,
d/b/a Buck Bradley LLC,

Plaintiff,

Case No. 22-cv-370-pp

v.

AUTO-OWNERS INSURANCE CO.,

Defendant.

**ORDER REMINDING PLAINTIFF OF OPTION TO FILE AMENDED
COMPLAINT IN LIEU OF RESPONDING TO DEFENDANT’S MOTION TO
DISMISS (DKT. NO. 4)**

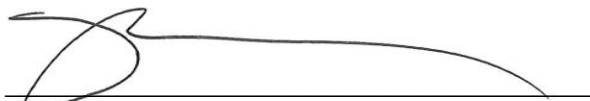
On April 1, 2022, the defendant filed a motion to dismiss the complaint under Federal Rule of Civil Procedure 12(b)(6). Dkt. No. 4. The defendant argues that the plaintiff’s claims rest on its contention that the defendant was required to provide coverage for economic losses caused by the COVID-19 pandemic. Dkt. No. 5 at 22. The defendant alleges that because the plaintiff was not entitled to coverage under the policy, there was no breach of its contract of insurance when the defendant declined to pay damages requested by the plaintiff; the plaintiff is not entitled to declaratory relief because the alleged losses don’t fit within the policy’s coverage provisions; the defendant cannot be held liable for bad faith because the denial of coverage was proper; and the plaintiff is not entitled to any damages and its request for punitive damages should be dismissed. *Id.* at 22-23.

Under Civil Local Rule 7(b), if the plaintiff wishes to oppose the motion it must do so within twenty-one days—that is by April 22, 2022. The plaintiff is free to timely file a response to the motion to dismiss, but the court reminds the plaintiff that it has another option—it may file an amended complaint to try to cure the alleged deficiencies. See Runnion ex rel. Runnion v. Girl Scouts of Greater Chi. and Nw. Ind., 786 F3d 510, 522 (7th Cir. 2015) (explaining that a responsive amendment may avoid the need to decide the motion or reduce the number of issues decided). Fed. R. Civ. P. 15(a)(1) allows the plaintiff to file the amended complaint as a matter of course within twenty-one days after service of the responsive pleading.

The court **ORDERS** that by April 22, 2022 the plaintiff shall file either an amended complaint or a response to the motion to dismiss.

Dated in Milwaukee, Wisconsin this 4th day of April, 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge